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# Security Council

Fiftieth Year

*Provisional*

**3504**th Meeting

Monday, 27 February 1995, 1.10 p.m.

New York

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| *President:* | Mr. Legwaila | (Botswana) |
| *Members:* | Argentina | Mr. Cárdenas |
| | China | Mr. Li Zhaoxing |
| | Czech Republic | Mr. Kovanda |
| | France | Mr. Mérimée |
| | Germany | Mr. Kaul |
| | Honduras | Mr. Rendón Barnica |
| | Indonesia | Mr. Wibisono |
| | Italy | Mr. Casardi |
| | Nigeria | Mr. Gambari |
| | Oman | Mr. Al-Khussaiby |
| | Russian Federation | Mr. Sidorov |
| | Rwanda | Mr. Bakuramutsa |
| | United Kingdom of Great Britain and Northern Ireland | Sir David Hannay |
| | United States of America | Mr. Inderfurth |

## Agenda

The situation concerning Rwanda

95-85168 (E)

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*The meeting was called to order at 1.10 p.m.*

**Adoption of the agenda**

*The agenda was adopted.*

**The situation concerning Rwanda**

**The President:** The Security Council will now begin its consideration of the item on its agenda. The Security Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them document S/1995/153, which contains the text of a draft resolution submitted by the United States of America.

It is my understanding that the Council is ready to proceed to vote on the draft resolution before it. Unless I hear any objection, I shall put the draft resolution to the vote.

There being no objection, it is so decided.

I shall first call on those members of the Council who wish to make statements before the voting.

**Mr. Li Zhaoxing** (China) *(interpretation from Chinese):* The Chinese Government and people have been following very closely the developments in Rwanda. Earlier this month I made my first visit to Rwanda as a member of the Special Mission of the Security Council, during which I met with officials of the Rwandese Government and other personages and learned a lot from the Rwandese people.

What I saw and heard in Rwanda is full of strong contrasts. On one hand, Rwanda is a beautiful and richly endowed land, and its people are industrious and talented. Having just experienced a tragedy of enormous dimensions, the Rwandese Government and people have already made some gratifying progress in restoring and maintaining social stability and in promoting national reconciliation. In Kigali and some other places I witnessed the Rwandese people rebuilding their homeland, and engineers and technicians from many countries, including China, working side by side with them. On the other hand, the wounds caused by the recent tragedy are far from being healed, and many destabilizing factors still exist — prominent among them being the millions of refugees and internally displaced people still living a miserable life and unable to return to their homes.

The Hutus and Tutsis in Rwanda have lived together and intermarried for generations. They share the same language and religion and have common cultural traditions, and they have set up many happy families through intermarriage. They fought together against colonialism and for national independence in the past, and are now faced with the common task of developing their economy and restoring social stability. They therefore have every reason, and are able, to live in amity.

Obviously, the background and causes of the turmoil, massacre and tragedy are profoundly complicated, multifaceted and, indeed, thought-provoking. When I left Rwanda, with mixed feelings, I was convinced that the Rwandese people, with the help of the international community, including the help of the United Nations and African neighbours, would surely be able to master their own future and destiny, on the basis of an in-depth analysis and digest of the historical experience and lessons.

The Rwandese people are faced with a very arduous task of rehabilitation and reconstruction. They have to rely mainly on their own strength to gradually achieve national reconciliation. At the same time, they need encouragement and assistance from the international community, including the Security Council. All outside efforts and assistance should contribute to political and social stability in Rwanda, and must follow the principles of respect for State sovereignty and non-interference in others' internal affairs, as set forth in the United Nations Charter, and must be based on the necessary condition of the consent and cooperation of the Rwandese Government.

The draft resolution before us, which has the full support of the Rwandese Government, is aimed at assisting the Rwandese Government and people properly to address the problems left over from the recent tragedy and to prevent criminals from remaining at large. The Chinese delegation hopes that its adoption will further promote the peace process in Rwanda and help the Rwandese people to achieve national reconciliation so that they can live and work in peace and contentment at an early date.

**Mr. Inderfurth** (United States of America): We believe that it is important that persons suspected of leading last spring's genocide in Rwanda or in States neighbouring Rwanda should be detained until the International Tribunal for Rwanda can investigate and make decisions about prosecution. Their detention, as

called for in this draft resolution, would be a tangible sign of the international commitment to holding individuals accountable for these atrocities and would thus improve prospects for reconciliation in Rwanda. Having defendants in custody would also enhance the credibility of the International Tribunal, which will start investigations in the next few weeks.

I should like to highlight especially two aspects of the draft resolution — both dealing with the aftermath of the tragic conflict in Rwanda. In the first place, the draft resolution underscores the objective of the International Tribunal, established pursuant to Security Council resolution 955 (1994). If the Tribunal is to contribute to terminating the impunity with which atrocities were committed in Rwanda in the past, it is necessary that it be able to take custody of those who committed such acts. Such persons must not be allowed to slip away.

The final preambular paragraph, which reminds States of their obligations under resolution 955 (1994), and paragraph 1, which asks States to arrest and detain persons who there is reason to believe committed acts within the jurisdiction of the Tribunal, are steps to this end.

In the second place, the draft resolution seeks to ameliorate the situation in the refugee camps and to facilitate the return of the refugees. It condemns attacks against persons in the camps and calls upon States to take steps to prevent such attacks. It calls upon States to arrest and detain persons when there is reason to believe that they incited or participated in such attacks. Removing those who threaten violence against refugees if they attempt to return to Rwanda removes one of the major impediments to voluntary return. Of course, the draft resolution makes it clear that the arrest and detention of persons must take place within the framework of law, including international standards concerning human rights.

The draft resolution is a step in a process. It builds on the resolutions that the Council has adopted, which are recalled in the first preambular paragraph. It is not the end of the process. There is much that remains to be done to complete the establishment of a Tribunal so that it is in a position to try and punish those guilty of serious violations of international humanitarian law. There is much that remains to be done to establish a justice system in Rwanda. By adopting this draft resolution today we would move the process along and provide further evidence of our commitment to continue to do so.

Let me say in conclusion that we have been pleased to work with the other members of the Council — including in particular Rwanda — to achieve the adoption of the draft resolution.

**The President:** I shall now put draft resolution S/1995/153 to the vote.

*A vote was taken by show of hands.*

*In favour:*

Argentina, Botswana, China, Czech Republic, France, Germany, Honduras, Indonesia, Italy, Nigeria, Oman, Russian Federation, Rwanda, United Kingdom of Great Britain and Northern Ireland, United States of America

**The President:** There were 15 votes in favour. The draft resolution has been adopted unanimously as resolution 978 (1995).

I shall now call on those members of the Council who wish to make statements following the voting.

**Mr. Mérimée** (France) *(interpretation from French):* France has just supported the resolution concerning the detention of Rwandese suspects. It has done so because it intends to assist in the process of national reconciliation, democratization and the establishment of the rule of law in Rwanda. Trying criminals that have taken part in acts of genocide undoubtedly has a role to play in this process. By the same token, we think that everything should be done to discourage acts of intimidation against the refugees now living in camps outside Rwandese territory who wish to return to their country. The text we have just adopted might be useful inasmuch as it constitutes a political message to all States and, in particular, those neighbouring Rwanda, that they should consider detaining those who have committed genocide and other individuals who carry out criminal acts in and around the camps.

Nevertheless, my delegation cannot hide the fact that adopting a resolution was never, in its view, the right way to send such a message. The priority, to our mind, is that the International Tribunal should start work as soon as possible, that is, now that the location of its seat has been chosen, the judges should be elected and should start work. When this is done and the rules of procedure have been adopted, it will be possible for all States that need to do so to adopt the necessary domestic legislation

to enable them to cooperate fully with the Tribunal. From that moment on, the arrest and detention of those suspected of committing acts of genocide and serious violations of international humanitarian law will be possible, at least in most cases. We should not close our eyes to the fact that until that time such measures are quite simply impossible in law in many States.

That is why a resolution under Chapter VII requiring all States immediately to detain the suspects they have in their territory would in our view have been absolutely out of the question.

The most appropriate legal formula would have been a presidential statement calling for the Tribunal to start work soon and for States to take any measures that might be needed to adapt their criminal law and only then requesting States to make the necessary arrests and detain people.

Nevertheless, a presidential statement would have presupposed a consensus among members of the Council and, despite our efforts, it has not been possible to achieve one. In these circumstances, rather than risking paralysis, we took pains to make acceptable the draft resolution that was available to us.

Our efforts have helped develop a text that, in its final version, makes no mention of Chapter VII of the Charter, addresses requests to States that are not binding in nature and specifies that any detentions will be effected in accordance with their national law — which, in our view, means that only those States that have domestic legislation enabling them to act along the requested lines will be able to do so, as the resolution cannot serve by itself alone as a legal basis for arresting anyone. Also, the two categories of acts — those that fall within the competence of the Tribunal and others, i.e., serious acts of violence in the camps — are clearly distinguished in the text and treated separately. This is also important, since there must be no confusion about this point.

This text is, then, in our view, not only an acceptable but a positive one in that it can and must be understood as a call to proceed to detentions that applies only to those States that have the necessary legislation to be able to do so legally in the case of alleged perpetrators of acts falling within the competence of the International Tribunal.

By limiting instances of impunity, the resolution we have just adopted also contributes towards the return of the rule of law in Rwanda, and this we welcome.

Furthermore, the international community is following very closely any initiatives taken by the Security Council in the field of international criminal law now that thought is being given as to what tomorrow's international legal institutions might look like. We should therefore be vigilant and see to it that respect for individual freedoms in criminal legal proceedings is properly ensured under the decisions recommended by the Council. My delegation will continue to pay special attention to this point in the future.

**Mr. Bakuramutsa** (Rwanda) *(interpretation from French):* My delegation would like to thank the delegation of the United States, which prepared this resolution — and the other members of the Council that worked on it — on the detention of persons found guilty of crimes against humanity, both within and outside Rwanda.

The resolution is of great importance for Rwanda and its people, since those who committed genocide and other crimes against humanity in Rwanda had held sway in the country for three and a half decades. They committed several waves of massacres with no one ever to bother them, since they were carrying out Government policy. The consequence of this impunity was the genocide that took place in full view of the world, which did not lift a finger to stop it.

The resolution will also make it possible to protect refugees and other citizens of Rwandese origin living in neighbouring countries, who are right now still falling victim to the same butchers that are going on killing without a shred of remorse or repentance for their acts.

The resolution could play a preventive role because, if the perpetrators of these crimes are not arrested, their actions are likely to set the subregion ablaze. The genocide perpetrated in Rwanda — a crime unique in Africa — has demonstrated to some, particularly Rwanda's neighbours, that such a thing is possible. The affluence in which the perpetrators live, the impunity that they enjoy, are an encouragement to criminals in other countries to do likewise.

My delegation is sure that you, Mr. President, and the Office of the Secretary-General, in the context of preventive diplomacy, increasingly a tool of choice in this Organization, are closely following everything that happens in the world. In this context, I should like to remind the Council that these Rwandese and other criminals are busy training in the countries of the

subregion, with the assistance and support of friendly countries, with a view to attacking Rwanda. Just in case this information turns out to be true, my delegation would urge the Council to check and, in the context of the aforementioned preventive diplomacy, find an appropriate solution before it is too late.

This is why the resolution is of concern not only to Rwanda, but also to the whole of Africa and to the world. For if impunity should persist and no action is taken, what happened in Rwanda is very likely to happen again in other countries of the region, where the situation has been described as potentially explosive. As we speak, battles are raging in certain areas of Africa, while elsewhere, some groups are preparing to eliminate opposing ethnic groups or factions. This problem is not peculiar to Africa; the same situation has taken deep root in the heart of Europe.

The resolution sends a clear and firm message to other political and ethnic organizations that might be tempted to repeat what has happened in Rwanda, and tells them that their actions will not go unpunished. That is why we wanted this resolution to be much stronger and much more binding than it is in its present form. It did not escape unscathed from the process of making it acceptable for adoption.

The Security Council could draw a lesson from what happened in Rwanda to spare Africa and the world a replay of that calamity. The Rwandese Government, for its part, also has a great deal to learn, but it also has a great deal of experience to share with others.

My delegation would conclude by asking the Security Council to take care that Rwanda's internal security is assured so that these same criminals cannot take advantage of the arms embargo against Rwanda to disturb the peace in the country. If Rwanda is to be responsible for its own security and internal peace, the Security Council must ditch some of the provisions that are no longer warranted from its previous resolutions.

The resolution would be incomplete if it did not go hand in hand with legal measures inside Rwanda that will make it possible to build the country ruled by law of which the Rwandese people dream.

**The President:** There are no further speakers.

The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The Security Council will remain seized of the matter.

*The meeting rose at 1.30 p.m.*